



Donald L. Carcieri
Governor
Adelita S. Orefice
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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Labor and Training

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May 26, 2005

Ms. Emily DeRocco
Assistant Secretary
Employment and Training Administration
U.S. Department of Labor
200 Constitution Avenue, N.W. Room S2307
Washington, D.C. 20210

Dear Ms. DeRocco:

Enclosed are four waiver requests that would give the State of Rhode Island needed flexibility in regard to Workforce Investment Board membership, customized training, initial eligibility for training providers on the statewide Eligible Training Provider List, and Individual Training Accounts for youth training.

The State of Rhode Island requests that the U.S. Department of Labor waive the membership requirements for the State Workforce Investment Board and allow the state to substitute the membership requirements of Rhode Island Public Law 42-101 Human Resource Investment Council (attached as Appendix "A" to the Waiver Request). The State seeks to downsize the required membership of the State Workforce Investment Board and does not want to appoint an additional board with essentially the same workforce development mission.

The State seeks to allow older out of school youth to select approved Individual Training Account programs from the Rhode Island Eligible Training Provider List, while retaining their youth classification. In this case, training costs can be charged as out of school youth expenditures, thereby eliminating the need to track such expenditures across different funding streams.

The State also seeks flexibility with regard to the 50% employer match requirement for customized training. Rhode Island is requesting a sliding scale approach to determine the employer match for such training based upon the a particular business or industry's cost/benefit ratio of contributing to the match amount to receive skilled employees and the transferability of skills to be attained by the proposed employees.

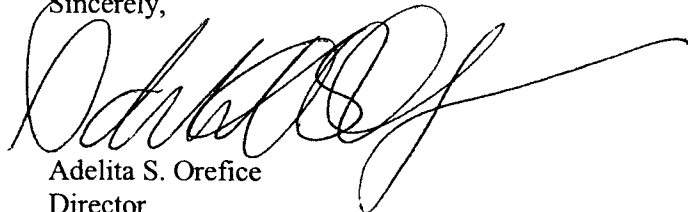
Lastly, Rhode Island requests a waiver to extend initial eligibility for all training providers on the statewide Eligible Training Provider List. Such a waiver would have the benefit of increasing the availability of course and program offerings to WIA eligible candidates for career specific vocational and occupational skill training.

The flexibility proposed in the attached waivers conforms with proposed changes being considered by Congress under the WIA re-authorization process. Furthermore, the attached waiver requests are not excluded from the waiver authority granted to the U.S. Department of Labor under the existing Workforce Investment Act.

We are very proud of our commitment to support flexibility whenever possible. We believe that the approval of these waiver requests will have a positive impact on our ability to deliver workforce development services to the people of Rhode Island.

If you have any questions, please feel free to contact me at (401) 462-8875.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adelita S. Orefice', with a long horizontal flourish extending to the right.

Adelita S. Orefice
Director

Enclosures

C: Mr. Douglas Small, Region 1, USDOL

AO:joh

**State of Rhode Island
Workforce Investment Act
Waiver Request
Workforce Investment Board Membership Requirements
State HRIC to act as SWIB under WIA
Workforce Investment Board Membership Requirements**

The Rhode Island Department of Labor and Training (RIDLT), as the State administrative entity for the Workforce Investment Act (WIA), is requesting a waiver of the WIA membership requirements for the SWIB.

The waiver request, if approved, would allow the Governor of the State of Rhode Island to create a SWIB that would be paramount and at the same time comply with the approved membership requirements set forth in Rhode Island Public Law 42-102-2 (b) and the recently amended Rhode Island State Constitution. The new SWIB's membership requirements would encompass the membership requirements of the HRIC (proposed membership requirements are attached as appendix "A" to this request) with two exceptions:

1. The Separation of Powers Amendment to the Rhode Island Constitution (this amendment was approved by the voters in November 2004 and its provisions supercedes the requirements of RI Public Law 42-102-2 enacted during the 2004 Rhode Island Legislative Session) prohibits state legislators from being on boards with executive functions. The removal of the state legislators reduces the size of the HRIC from fifteen (15) to thirteen (13) members.
2. The Governor also wishes to appoint four (4) additional members to the SWIB: (1) representative of the post-secondary education system, (1) representative of the lead state agency responsible for implementing the state's workforce development policy i.e., the Director of the Department of Labor and Training (2) additional representative of the employer community.

Therefore, if the waiver is approved, the new SWIB would have seventeen (17) Members with a business majority.

The Rhode Island HRIC is charged with the essentially the same mission as the State Workforce Investment Council (SWIB) under the WIA, i.e., providing the "strategic planning for an evaluation and coordination of workforce development efforts in Rhode Island and support of innovative and state-of-the-practice initiatives and programs for workforce development." In addition, the classes of the membership requirements of both boards are similar; therefore, to have two boards with the same mission and similar classes of membership would not make sense organizationally.

Finally, the new SWIB, encompassing the membership and mission of the Rhode Island Human Resource Investment Council (HRIC), is a much smaller board than the one required by the WIA. This is a desirable goal if one wishes to have an active, influential and involved board. Boards with over fifty (50) members, as required under WIA, are

unwieldy, lead to low participation rates and are marked by having little meaningful discussion.

This waiver request adheres to the format identified in WIA Section 189 (i)(4)(B) and WIA Final Regulations at 20 CFR Section 661.420(c).

1. Statutory Requirements to be Waived:

The WIA contains requirements for SWIB membership at section 111(b). This requirement results in large, unwieldy and, therefore, unsuccessful boards. In the case of Rhode Island, the HRIC has essentially the same mission and membership requirements—though smaller in size. The creation of a separate SWIB under WIA would divide authority and responsibility between two public bodies with the same purpose.

The following classes of membership are required under the State HRIC Statute for the fifteen (15) member HRIC: six (6) from the employer community, four (4) members must be women, three (3) must be minority community representatives and one member must represent the disabled community, two (2) legislators—one from the senate and house each.

The legislators, however, are excluded from membership on the State Workforce Investment Board and the HRIC by the RI Constitution. The Governor would appoint the representatives of two (2) state agencies and two (2) additional employer representatives and remove the two (2) legislators. The State Workforce Investment Council encompassing the membership and mission of the HRIC would still consist of seventeen (17) members—nine (9) would be representing the employer community.

2. State Statutory Barriers:

There are no existing state statutory or regulatory barriers to implementation of this waiver request. The approval of the waiver would expedite the State's planning and implementation of WIA programs.

3. Goals of the Waiver and Expected Programmatic Outcomes:

The approval of this waiver request will give the Governor greater control over development and achievement of Rhode Island's workforce development goals. The smaller SWIB appropriately modified with additional employer and state agency representation will be able to focus on strategic issues and simply be more effective. The main reason that influential private sector members do not attend SWIB meetings more frequently is because of the size of the boards. It has also been difficult to achieve the necessary quorum for conducting meetings with larger boards.

4. Description of the Individuals Impacted by the Waiver:

The impact of this waiver would be having a smaller and more effective board.

5. Description of the Process to Monitor Waiver Progress:

The State Workforce Investment Office of the Rhode Department of Labor and Training already has the responsibility to monitor the composition of the State Workforce Investment Board and ensure their compliance with member requirements.

6. Opportunity to Comment on the Waiver Request:

This waiver request was published on May 18, 2005, on the State Workforce Investment Office (WIO) website at <http://www.DLT.RI.Gov/WIO>. In addition, the waiver also was publicly noticed in a paper of general circulation. A Public Hearing was held on May 25, 2005.

7. Public Comment on the Waiver Request:

No adverse comments were received at the Public Hearing held on May 25, 2005.

Appendix "A"
PROPOSED SWIB MEMBERSHIPS

- (1) Nine (9) members shall be appointed by the governor from the employer community, in a manner that is representative of employers of different sizes and sectors, including the nonprofit sector. The chair shall will be appointed from one of these employer community representatives.
- (2) Four (4) members from organized labor shall be appointed by the governor;
- (3) Two (2) members from community-based organizations shall be appointed by the governor;
- (4) Two (2) members of state agencies, a representative of the post-secondary education system and the Rhode Island Department of Labor and Training (the lead state agencies responsible for the implementation of State Workforce Development Policy).

The new SWIB will consist of seventeen members of which nine (9) members, including the chair, will be representatives of the employer community.

**State of Rhode Island
Workforce Investment Act
Waiver Request
EXTENSION OF INITIAL ELIGIBILITY FOR ALL TRAINING PROVIDERS ON
THE STATEWIDE ELIGIBLE TRAINING PROVIDER LIST**

Background

The State of Rhode Island developed and maintains an Eligible Provider list. The list resides on the State's Web Site and includes cost and performance data. In addition to requiring information related to WIA-funded students, the Act requires performance information for all students participating in the training providers' programs (Workforce Investment Act 122(d)(1)(A) (1998), 20 CFR 663.540 (a)(1)(i)(2000). The strict enforcement of this provision by the State unduly limits the training services available to WIA clients. While most training providers supply the State with performance information on "all students," some do not. In addition, some providers, notably, post-secondary public and private colleges, do not provide social security numbers. Consequently, the state is not able to test the veracity of the training provider's information in all cases. Despite many attempts to secure data with regard all students from those providers seeking to join the state's Eligible Training Provider list, complete data has not been obtained. Therefore, the state is seeking a waiver of this aspect of WIA in order to move into compliance regarding the ETPL and to continue to provide meaningful and plentiful training options for our clients.

The Rhode Island Department of Labor and Training (RIDLT), as the State administrative entity for the Workforce Investment Act (WIA), is requesting a waiver to extend the period of "Initial Eligibility of Training Providers." This waiver will address the Eligible Training Provider List ETPL requirement for subsequent eligibility determination included in the Workforce Investment Act (WIA) Section 122(c)(5) and Title 20 of the Code of Federal Regulations (CFR) Section 663.530, related to eligible training provider provisions.

The waiver request, if approved, would extend the period of initial eligibility through June 30, 2006.

This waiver request adheres to the format identified in WIA Section 189(i)(4)(B) and WIA Final Regulations at 20 CFR Section 661.420(c).

1. Statutory Requirements to be Waived:

State of Rhode Island
Workforce Investment Act
Waiver Request
Extension of initial eligibility for all training providers on the Statewide ETPL
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The WIA Section 122(c)(5) and Title 20 CFR 663.530 dealing with the time limit for initial eligibility would be waived.

2. Goals of the Waiver and Expected Programmatic Outcomes:

The State of Rhode Island fully understands the need for accountability and supports efforts to ensure that customers are making informed decisions based on quality data; however, the ability to effectively collect the required data is limited and the results could adversely impact customer choice and limit training options for clients.

The goal is to increase the quality and quantity of all performance information for training providers on the State list of eligible training providers. The State will continue to pursue this goal but does not want to be in the position of forcing the elimination of quality training providers or have providers opt out of the WIA system in the interest of complying with privacy concerns of their non-WIA clients. Our approach is that this is an ongoing process, whereby, the data available to clients will constantly improve over time.

The list of training offerings would be greatly expanded should this waiver request be approved. The community college system, for example, is a critical provider that has been opting out of full participation in the Rhode Island ETPL system. The Community College System has been only applying for inclusion of its not-for-credit courses because of concerns with the privacy of their non-WIA student body. The community college system would be able to offer for-credit courses on the ETPL that have not been offered before because of the subsequent eligibility requirements.

The approval of this waiver will allow Rhode Island to expand an established system that will continue to extract better and better performance information from individual providers on the ETPL.

3. State Statutory Barriers:

There are no existing state statutory or regulatory barriers to implementation of this waiver request.

4. Description of the Individuals Impacted by the Waiver:

The waiver will positively affect all LWIAs and boards, training providers, local One-Stop staff, and customers.

5. Description of the Process to Monitor Waiver Progress:

The State Workforce Investment Office of the Rhode Department of Labor and Training already has the responsibility to monitor the Eligible Training Provider list (ETPL) compliance.

6. Opportunity to Comment on the Waiver Request:

This request was developed at the request of local areas. As with all major workforce policies and procedures, the State has solicited dialogue and input from the local workforce boards and staff concerning the impact of this request. The local workforce areas are in support of this request. This waiver request was published on May 18, 2005, on the State Workforce Investment Office (WIO) website at <http://www.DLT.RI.Gov/WIO>. In addition, the waiver also was publicly noticed in a paper of general circulation. A Public Hearing was held on May 25, 2005.

7. Public Comment on the Waiver Request:

No adverse comments were received at the Public Hearing held on May 25, 2005.

**State of Rhode Island
Workforce Investment Act
Waiver Request
PROHIBITION ON USE OF YOUTH WIA DOLLARS TO FUND INDIVIDUAL
TRAINING ACCOUNTS FOR OLDER YOUTH**

The Rhode Island Department of Labor and Training (RIDLT), as the State administrative entity for the Workforce Investment Act (WIA), is requesting a waiver of FROM Title 20 of the code of Federal Regulations (CFR) Section 664.510, under the provisions established in Section 189(i)(4)(B) of WIA. Section 664 prohibits the use of Individual Training Accounts (ITAs) for Youth participation, except in the case they are determined eligible and are co-enrolled either as an Adult or Dislocated Worker.

The waiver request, if approved, would allow the Governor of the State of Rhode Island to appropriately use ITAs for Youth participants, based on a valid needs assessment of interests, skills and aptitudes. Under the current regulation, older youth (ages 18 and over) may at the same time, be enrolled as adults and use ITAs as “adults.” Also, there is no specified age for the Dislocated Worker program, which could mean that youth under the age of 18, could also meet the Dislocated Worker eligibility requirements, be co-enrolled and receive ITAs. Under the current regulations, expenditures for ITAs are charged to the Adult or Dislocated Worker funding streams, rather than to the Youth funding stream. This co-enrollment requirement is a duplicative and unnecessary process which does not allow local workforce boards to charge the cost of the ITA back to the Youth account, but draws down “limited” adult funds. The current regulation also does not allow some of those expenditures to be appropriately counted towards the 30 percent out-of-school expenditure requirement.

This waiver would allow older out-of-school youth to select approved ITA programs from the Rhode Island Eligible Training Provider list, while retaining their youth classification. Training costs can be charged as out-of school Youth expenditures, thereby, eliminating the need to track such expenditures across different funding streams as it is done presently.

1. Statutory Requirements to be Waived:

Title 20 CFR 664.510, Section 189(1)(4)(B) of WIA which prohibits the use of ITAs for youth unless they are found eligible for and co-enrolled in either the adult or dislocated worker program.

2. Goals of the Waiver and Expected Programmatic Outcomes:

The approval of this waiver will maximize the service delivery capacity of the Workforce Investment Act (WIA) Youth programs within the One Stop Career Center delivery system by allowing youth, who are employment-focused, to have the same access as adults and dislocated workers to the advantages of ITAs